

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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LANCE REBERGER,

Plaintiff,

Case No. 3:13-cv-00407-MMD-WGC

ORDER

v.

JAMES G. COX, et al.,

Defendants.

This is a *pro se* prisoner civil action which was commenced by plaintiff filing an Application to Proceed in *Forma Pauperis* (dkt. no. 1) with a Motion for Emergency Preliminary Injunction [and] Temporary Restraining Order. The emergency motion seeks a 90-day stay of the enforcement of a prison regulation which limits prisoners' ability to transport more than three boxes of legal materials when they are transferred or relocated to a different prison or correctional facility. The Emergency Motion did not accompany proper initiating pleading such as a civil rights complaint. Plaintiff acknowledges that he has several active cases, alleging that they may be negatively impacted by this regulation. If injury is imminent in those actions a motion for emergency relief might properly be filed therein.

In addition, plaintiff is subject to the restraints on filing civil action in *forma pauperis* imposed by 28 U.S.C. § 19195(g) because he has had more than three such actions dismissed as frivolous or for failing to state a claim. See, Reberger v. Baker, 3:13-cv-00378-MMD-WGC. When subject to this provision, a plaintiff must either pay

1 the full filing fee at the commencement of the action or demonstrate to the Court that he  
2 is in imminent danger of serious physical injury. *Id.* The facts as alleged in his  
3 emergency motion do not indicate any risk of physical harm. Plaintiff's contentions  
4 relate to potential future injury to his ability to litigate his civil rights and habeas actions.  
5 The motion shall be dismissed as improperly commenced.

6 IT IS THEREFORE ORDERED that the Application to Proceed in *Forma*  
7 *Pauperis* (dkt. no. 1) is DENIED. Pursuant to 28 U.S.C. § 1915(b)(2), the Nevada  
8 Department of Corrections shall pay to the Clerk of the United States District Court,  
9 District of Nevada, 20% of the preceding month's deposits to plaintiff's account (inmate  
10 #39494), in the months that the account exceeds \$10.00, until the full \$350.00 filing fee  
11 has been paid for this action. The Clerk of the Court shall send a copy of this order to  
12 the Finance Division of the Clerk's Office. The Clerk shall also send a copy of this order  
13 to the attention of the Chief of Inmate Services for the Nevada Department of  
14 Corrections, P.O. Box 7011, Carson City, NV 89702.

15 IT IS FURTHER ORDERED that action is DISMISSED WITHOUT PREJUDICE.  
16 The Clerk shall enter judgment accordingly.

17 DATED THIS 7<sup>th</sup> day of August 2013.  
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20 MIRANDA M. DU  
21 UNITED STATES DISTRICT JUDGE  
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